

MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, OCTOBER 3, 2006

The Council of the City of San José convened in regular session at 9:30 a.m. in the Mayor's Conference Room T1841, at City Hall.

Present: Council Members - Campos, Chavez, Chirco, Cortese, LeZotte, Nguyen, Pyle, Reed, Williams, Yeager; Gonzales.

Absent: Council Members - None.

Upon motion unanimously adopted, Council recessed at 9:33 a.m. to a Closed Session in Room T1841, (A) to confer with Legal Counsel pursuant to Government Code Section 54956.9 subsection (a) with respect to existing litigation to consider the case of: (1) City of San José v. Nazloo; (2) Gresham, et al. v. City of San José; (3) San José Silicon Valley Chamber of Commerce Political Action Committee, et al. v. City of San José, et al. (B) to confer with Legal Counsel pursuant to Government Code Section 54956.9, Subsection (b) with respect to anticipated litigation of significant exposure in two (2) matters. (C) to confer with Labor Negotiator pursuant to Government Code Section 54957.6, City Negotiator: City Manager designee Alex Gurza, and the following Employee Organizations: (1) Operating Engineers, Local 3.

By unanimous consent, Council reconvened from the Closed Session and recessed at 10:40 a.m. and reconvened at 1:33 p.m. in the Council Chambers.

Present: Council Members - Campos, Chavez, Chirco, Cortese, LeZotte, Nguyen, Pyle, Reed, Williams, Yeager; Gonzales.

Absent: Council Members - None.

INVOCATION

Mabashir Chaudhry, volunteer Imam of the Baitul Baseer Mosque. (District 9)

PLEDGE OF ALLEGIANCE

Mayor Gonzales led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Vice Mayor Chavez, seconded by Council Member Campos and carried unanimously, the Orders of the Day and the Amended Agenda were approved. (11-0.)

CEREMONIAL ITEMS

1.1 Presentation of a proclamation declaring October 8-14, 2006 as “Fire Prevention Week” throughout the City. (Fire)

Action: Mayor Gonzales declared October 8-14, 2006 as “Fire Prevention Week” throughout the City of San José, encouraging all residents to be fire safety aware.

1.2 Presentation of a commendation recognizing the 50th Anniversary Celebration of the Water Pollution Control Plant on October 14, 2006. (LeZotte) (Rules Committee referral 9/27/06)

Action: Mayor Gonzales and Council Member LeZotte recognized the 50th Anniversary Celebration of the Water Pollution Control Plant, which will be held on October 14, 2006.

1.3 Presentation of a proclamation for the City of San José joining the Environmental Protection Agency (EPA) to do our part in this nationwide effort, celebrating October 4, 2006 as “Energy Star Change a Light Day”. (LeZotte) (Rules Committee referral 9/27/06)

Action: Mayor Gonzales and Council Member LeZotte recognized the City of San José’s effort in joining the EPA in celebrating the day of October 4, 2006 as “Energy Star Change a Light Day”.

1.4 Presentation of a resolution declaring October 2006 as “Solar and Energy Awareness Month”. (LeZotte) (Rules Committee referral 9/27/06)

Action: Mayor Gonzales and Council Member LeZotte recognized October 2006 as “Solar and Energy Awareness Month”.

1.5 Presentation of a commendation to The Links, Incorporated, a National African American College educated service group of approximately 10,000 throughout the United States, South Africa and the Bahamas for its dedication for fostering volunteerism within its members and nurturing our youth to becoming successful individuals. (Williams) (Rules Committee referral 9/27/06)

Action: Dropped.

- 1.6 Presentation of a commendation to the Mexican Heritage Plaza on the occasion of the 15th Annual San José International Mariachi Festival and Conference to be held October 6-8, 2006 in San José. (Campos)**
(Rules Committee referral 9/27/06)

Action: Mayor Gonzales and Council Member Campos recognized and commended the Mexican Heritage Plaza on occasion of the 15th Annual San José International Mariachi Festival and Conference, which will be held October 6-8, 2006 in San José.

- 1.7 Presentation of a commendation on behalf of the Sister Cities International Northern California Annual Conference which will take place at City Hall on October 14, 2006. (Campos)**
(Rules Committee referral 9/27/06)

Action: Mayor Gonzales and Council Member Campos recognized the Sister Cities International Northern California Annual Conference, which will take place at City Hall on October 14, 2006.

- 1.8 Presentation of a commendation to Patrick Kwok for his admirable years of service and dedication to the City of San José Environmental Services Department and for his leadership within the Asian American Community of the South Bay. (Nguyen)**
(Rules Committee referral 9/27/06)

Action: Mayor Gonzales and Council Member Nguyen recognized and commended Mr. Patrick Kwok for his service and dedication to the City of San José and the community.

CONSENT CALENDAR

Upon motion by Council Member Williams, seconded by Vice Mayor Chavez and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (11-0.)

- 2.1 (a) Regular Minutes of December 13, 2005**
[Deferred from 9/19/06 – Item 2.1(b) and 9/26/06 – Item 2.1(a)]

Action: Deferred to October 17, 2006.

- 2.2 (a) ORD. NO. 27864 – Amending Part 1 of Chapter 23.02 of Title 23 of the San José Municipal Code to add a definition of inflatable signs and amending Sections 23.04.110 and 23.04.120 of Chapter 23,04 of Title 23 of the San José Municipal Code to allow inflatable signage on certain large parcels located within the Downtown Sign Zone.**

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on September 26, 2006, submitted by the City Clerk.

2.2 (a) (Cont'd.)

Action: [Ordinance No. 27864](#) was adopted. (11-0.)

- (b) **ORD. NO. 27865 – Prezoning certain real property situated on the southwesterly corner of Capitol Avenue and Gimelli Way from County of Santa Clara to RM Multi-Family Residential Zoning District. C06-044**

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on September 26, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27865](#) was adopted. (11-0.)

- (c) **ORD. NO. 27866 – Prezoning certain real property situated on the northeasterly corner of Story Road and Machado Lane from County of Santa Clara to R-1-5 Single Family Residence Zoning District. C06-042**

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on September 26, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27866](#) was adopted. (11-0.)

- (d) **ORD. NO. 27867 - Prezoning certain real property situated on the north side of Paula Street, south of Interstate 280, east of Northrup Street and west of Lincoln Avenue from County of Santa Clara to RM Multi-Family Residential Zoning District. C06-046**

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on September 26, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27867](#) was adopted. (11-0.)

- (e) **ORD. NO. 27868 – Prezoning certain real property situated on the north side of Paula Street, south of Interstate 280, between Race Street and Northrup Street and west of Northrup Street from County of Santa Clara to RM Multi-Family Residential Zoning District. C06-047**

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on September 26, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27868](#) was adopted. (11-0.)

- 2.2 (f) **ORD. NO. 27869** – Rezoning certain real property situated on the south side of Paula Street, and extending 430 feet westerly of Race Street from County of Santa Clara to RM Multi-Family Residential Zoning District. C06-050

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on September 26, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27869](#) was adopted. (11-0.)

- (g) **ORD. NO. 27870** – Rezoning certain real property situated on the southwest corner of Curtner and Bascom Avenues from County of Santa Clara to R-1-8 Single Family Residential Zoning District as to a certain portion and to CP Commercial Pedestrian Zoning District as to a certain portion. C06-053

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on September 26, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27870](#) was adopted. (11-0.)

- (h) **ORD. NO. 27871** – Rezoning certain real property situated at the southwest corner of Ardis Avenue and Stevens Creek Boulevard to A(PD) Planned Development Zoning District. PDC06-054

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on September 26, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27871](#) was adopted. (11-0.)

- (i) **ORD. NO. 27872** – Rezoning certain real property situated on the northeast corner of West Alma Avenue and Minnesota Avenue from A(PD) Planned Development Zoning District to CP Commercial Pedestrian Zoning District. C06-086

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on September 26, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27872](#) was adopted. (11-0.)

- (j) **ORD. NO. 27873** – Rezoning certain real property situated on the south side of Balbach Street, approximately 150 feet easterly of Almaden Avenue to A(PD) Planned Development Zoning District. PDC05-042

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on September 26, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27873](#) was adopted. (11-0.)

- 2.2 (k) **ORD. NO. 27874 – Rezoning certain real property situated on the east side of Page Street, approximately 200 feet southerly of Douglas Street to A(PD) Planned Development Zoning District. PDC06-010**

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on September 26, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27874](#) was adopted. (11-0.)

- 2.3 **Acceptance of the Office of the City Auditor's *Report of Activities and Findings for the Period July 16, 2006 through August 15, 2006.* (City Auditor) (Rules Committee referral 9/20/06)**

Documents Filed: Report of the Activities and Findings for the Period July 16, 2006 through August 15, 2006 from the Office of the City Auditor.

Action: The Report of the Activities and Findings for the Period July 16, 2006 through August 15, 2006 from the Office of the City Auditor was accepted. (11-0.)

- 2.4 (a) **Adoption of the following Appropriation Ordinance and Funding Sources Resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund):**

- (1) Increase the estimate for Earned Revenue by \$286,676.
- (2) Increase the appropriation to the Department of Transportation for the NBD's Banner project (PSM #378, amendment 2) in the amount of \$12,500.
- (3) Increase the appropriation to the Department of Public Works for the Transit Mall Lighting project (PSM #379, amendment 1) in the amount of \$22,040.
- (4) Increase the appropriation to the Department of Public Works for the Market Almaden Pedestrian Lighting project (PSM #385, amendment 1) in the amount of \$44,936.
- (5) Establish an appropriation to the Department of Transportation for the Guadalupe River Park Trail Improvements project (PSM #461) in the amount of \$7,200.
- (6) Establish an appropriation to the Department of Transportation for the Downtown Street Lighting Improvements project (PSM #464) in the amount of \$89,000.
- (7) Establish an appropriation to the Department of General Services for the Acquisition and Installation of Two 60-ton DX Caterpillar Portable Package Air Handling Units project (PSM #469) in the amount of \$111,000.

(Item continued on the next page)

- 2.4 (b) **Adoption of resolutions making certain determinations regarding the related expenditure of Redevelopment Agency funds on certain public improvements in connection with:**
- (1) **The Guadalupe River Park Trail Improvements project as more specifically described in the memorandum from the Redevelopment Agency, dated August 28, 2006;**
 - (2) **The Downtown Street Lighting Improvements project as more specifically described in the memorandum from the Redevelopment Agency, dated September 7, 2006.**

CEQA: PSM Nos. 378, 379, 385 and 464, Exempt, File No. PP01-02-023. PSM No. 461, Resolution No. 71373 and PSM No. 469, Resolution No. 72767. (City Manager's Office)

Documents Filed: Memorandum from Budget Director Larry Lisenbee, dated September 13, 2006, recommending adoption of appropriation ordinance, funding sources resolution amendments and resolutions.

Action: [Ordinance No. 27877](#), entitled: "An Ordinance of the City of San José Amending "An Ordinance of the City of San José Amending Ordinance No. 27801 to Appropriate Monies in the Services for Redevelopment Capital Projects Fund for Various Citywide Projects; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption"; [Resolution No. 73427](#), entitled: "A Resolution of the Council of the City of San José "A Resolution of the Council of the City of San José Amending Resolution No. 73265 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2006-2007 to Adjust Revenues in the Services for Redevelopment Capital Projects Fund"; [Resolution No. 73428](#), entitled: "A Resolution of the Council of the City of San José Making Certain Determinations Regarding the Expenditure of Redevelopment Agency Funds for Certain Public Improvements in the Julian Stockton Redevelopment Project Area", and [Resolution No. 73429](#), entitled: "A Resolution of the Council of the City of San José Making Certain Determinations Regarding the Expenditure of Redevelopment Agency Funds for Certain Public Improvements in the Merged and Strong Neighborhood Initiative Redevelopment Project Areas", were adopted (11-0.)

- 2.5 **Approval of a fifth amendment to the consultant agreement with David J. Powers & Associates, Inc. for Airport environmental analysis services, increasing the maximum cost of the agreement by \$250,000 from \$370,000 to a not to exceed amount of \$620,000 for additional work on the Airport Obstruction Study. CEQA: Resolution Nos. 67380 and 71451, PP06-143. (Airport)**

Documents Filed: Memorandum from Director of Aviation William Sherry, dated September 22, 2006, recommending approval of the agreement.

Action: The fifth amendment to the consultant agreement with David J. Powers & Associates, Inc., was approved. (11-0.)

- 2.6 Adoption of a resolution authorizing the Director of Finance to execute a continuation agreement between the City and ACS for parking control equipment at San José International Airport, extending the term from October 1, 2000 to December 31, 2006 to allow for payment of \$654,477.05 to be made to the vendor. CEQA: Not a Project. (Finance)**

Action: Deferred to October 17, 2006

- 2.7 Adoption of a resolution authorizing the Director of Finance to:**
(a) Execute a one-year agreement with Aris Helicopters Ltd., for the maintenance of the Police Department's helicopter, Model EC120B Eurocopter, for a total cost of \$183,000, and;
(b) Execute four one-year periods subject to annual appropriations.
CEQA: Not a Project. (Finance)

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated September 13 2006, recommending adoption of a resolution.

Action: [Resolution No. 73430](#), entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Finance to Execute an Agreement with Aris Helicopters, LTD. For Helicopter Maintenance and Repair Services", was adopted. (11-0.)

- 2.8 Report on bids and award of purchase of two parallelogram lifts to the sole bidder, Municipal Maintenance Equipment Inc. in an amount not to exceed \$160,751.68 and authorizing the Director of Finance to execute the purchase order. CEQA: Not a Project. (Finance)**

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated September 13, 2006, recommending award of the purchase.

Action: The purchase was approved and the Director of Finance was authorized to execute the purchase order. (11-0.)

- 2.9 Approval of a Memorandum of Understanding (MOU) between the San José Education Foundation and the City of San José providing for the City to pay partial costs not to exceed \$114,063 to fund a Resource Teacher for the City's Smart Start San José, from January 1, 2006 to December 30, 2008. CEQA: Not a Project. Council District 7. SNI: Seventrees. (Library)**

Documents Filed: Memorandum from Library Director Jane Light, dated September 13, 2006, recommending approval of the MOU.

Mayor Gonzales abstained from voting as he serves on the Advisory Board.

Action: Upon motion by Council Member Williams, seconded by Council Member Pyle and carried unanimously, the Memorandum of Understanding was approved. (10-0-1. Disqualified: Gonzales)

- 2.10 Adoption of a resolution initiating proceedings, and setting October 17, 2006 at 1:30 p.m. for Council consideration on the reorganization of territory designated as Evergreen No. 191 which involves the annexation to the City of San José of an approximately 2.40 gross acres of land located on the east side of Ruby Avenue, approximately 400 feet southerly of Holderman Drive and adjacent to the City of San José annexations Evergreen Nos. 166, 169, 170 and 132 and the detachment of the same from Central Fire Protection and Area No. 01 (Library Services) County Service. CEQA: Resolution No. 65459. Council District 8. (Planning, Building and Code Enforcement)**

Documents Filed: Memorandum from Acting Director of Planning, Building and Code Enforcement Joe Horwedel, dated September 13, 2006, recommending adoption of a resolution.

Action: [Resolution No. 73431](#), entitled: “A Resolution of the Council of the City of San José Initiating the Reorganization Proceedings for the Annexation and Detachment of Certain Uninhabited Territory Designated as Evergreen No. 191 Described Herein and Setting the Date, Time and Place for Consideration of Such Reorganization” was adopted. (11-0.)

- 2.11 Approval of an agreement for a transfer of property located at 3411 Rocky Mountain Drive/Harvest Drive, from the Mt. Pleasant High School District to the City for constructed sidewalk improvements and adoption of a resolution authorizing the Director of Public Works to execute all documents related to the acceptance of the grant deed. CEQA. Exempt, PP02-01-011. Council District 5. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated September 13, 2006, recommending approval of an agreement and adoption of a resolution.

Action: The agreement for a transfer of property was approved and Resolution No. 73432, entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Public Works to Execute Certain Documents for the Transfer of Property Located at 3411 Harvest Drive from the Mt. Pleasant High School District to the City for Constructed Sidewalk Improvement”, was adopted (11-0.)

- 2.12 (a) Approval of Contract Change Order No. 4 with DBS Construction, Inc. for the Roosevelt Community Center Package I Project in the amount of \$160,288 for a total contract amount of \$1,446,247.**
(b) Increase the project contingency budget by \$310,000 from \$117,999 to \$427,999.
(c) Authorize the Director of Public Works to execute future change orders not to exceed \$300,000 for unanticipated conditions yet to be negotiated.
CEQA: Mitigated Negative Declaration, File No, PP03-12-397. Council District 3. SNI: Five Wounds/Brookwood. (Public Works)
(Rules Committee referral 9/27/06)

2.12 (Cont'd.)

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated September 26, 2006, recommending approval of the change order with related contingency and authorization to the Director of Public Works.

Action: The Change Order No. 4 with DBS Construction, Inc, with related contingency and authorization to the Director of Public Works to execute future change orders not to exceed \$300,000 were approved. (11-0.)

END OF CONSENT CALENDAR

3.2 Report of the Rules Committee – September 20, 2006 Vice Mayor Chavez, Chair

Documents Filed: The Rules Committee Reports dated September 20, 2006 and September 27, 2006.

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (b) City Council

- (1) Review October 3, 2006 Draft City Council Agenda
 - (a) Adds to the October 3, 2006 Draft City Council Agenda

The Committee approved the October 3, 2006 Draft City Council Agenda with two additions.

- (2) Add New Items to September 26, 2006 Agenda
 - (a) Mayor and Councilmember Requests
 - (b) Council Appointee Requests

The Committee approved the September 26, 2006 City Council Agenda with two additions. Quyen Vuong, ICAN, asked the Committee to consider deferring Item 5.4 from the September 26, 2006 Agenda to the October 3, 2006 Agenda. Council Member Chirco noted that Item 5.4 could not be deferred as there is a timeline to follow and any delay would not be respectful to the whole process or to the other organizations participating in the HNVF process.

- (3) List of Reports Outstanding

The Committee noted and filed the City Manager's Report.

3.2 Report of the Rules Committee – September 20, 2006 (Cont'd.) Vice Mayor Chavez, Chair

- (c) Legislative Update
 - (1) State

Intergovernmental Director Betsy Shotwell reported that SB1128 (enhancing penalties and implements new laws for registered sex offenders) was approved by the Governor.

- (2) Federal - No Report.

- (d) Meeting Schedules - There were none.

- (e) The Public Record. Attachment: Memorandum from City Clerk Lee Price, dated September 14, 2006, transmitting items for Public Record for the period of September 6-12, 2006.

The Committee noted and filed the Public Record.

- (f) Appointments to Boards, Commissions and Committees
 - (1) Reappoint Alice Barrios Esquivel to the Mobile Home Advisory Commission and Alkesh Desai to the Small Business Development Commission for terms ending December 31, 2009. Attachment: Memorandum from Council Member Reed, dated September 11, 2006, recommending one reappointment.
 - (2) Reappoint Sandra Adams to the Advisory Commission on Rents to a term ending December 31, 2009. Attachment: Memorandum from Council Member Campos, dated September 12, 2006, recommending one appointment.

The Committee approved the appointments.

- (g) Rules Committee Reviews, Recommendations and Approvals
 - (1) Add to the City Auditor's Work Plan for assistance in reviewing financial information in response to American Music Theatre's request for a loan in the amount of \$1,000,000. (City Manager's Office)

The Committee approved the addition to the City Auditor's work plan.

- (h) Review of Significant Review Public Records Act Requests

There were none.

- (i) Review of Council Policy Updates per Sunshine Reforms

There were none.

**3.2 Report of the Rules Committee – September 20, 2006 (Cont'd.)
Vice Mayor Chavez, Chair**

- (j) Open Forum - None were presented.
- (k) Adjournment - The meeting was adjourned at 2:29 p.m.

**3.2 Report of the Rules Committee – September 27, 2006
Vice Mayor Chavez, Chair**

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (b) City Council
 - (1) Review October 10, 2006 Draft City Council Agenda

None, meeting was canceled.

- (2) Add New Items to October 3, 2006 City Council Agenda
 - (a) Mayor and Councilmember Requests
 - (b) Council Appointee Requests

The Committee approved the October 3, 2006 City Council Agenda with twelve additions.

- (3) List of Reports Outstanding

The Committee noted and filed the City Manager's Report.

- (c) Legislative Update
 - (1) State
 - (a) Approve City positions on the November 2006 Statewide General Election Ballot – Propositions 83 through 90
The Committee approved the City positions for Propositions 83 through 90. Susan Price Jang, People Acting in Community Together asked for endorsement of Proposition 86.

Council Action on this item deferred to 10/10/06 Special Evening Council Session.

- (2) Federal - No Report.

- (d) Meeting Schedules - There were none.

- (e) The Public Record. Attachment: Memorandum from City Clerk Lee Price, dated September 21 2006, transmitting items for Public Record for the period of September 13-19, 2006.

The Committee noted and filed the Public Record.

3.2 Report of the Rules Committee – September 27, 2006 (Cont'd.) Vice Mayor Chavez, Chair

- (f) Appointments to Boards, Commissions and Committees - There were none.
- (g) Rules Committee Reviews, Recommendations and Approvals
 - (1) Approval of the Code Enforcement Division Analysis. Attachment: Memorandum from Council Member Cortese, dated September 27, 2006, recommending assessment of code enforcement general code complaint handling process.

The Committee requested Staff return to the Rules Committee on October 11, 2006 with a work load assessment.
 - (2) HP Grants. Attachment: Memorandum from Council Member Cortese, dated September 27, 2006, recommending assessment of the HP grants.

The Committee requested Staff return to the Rules Committee on October 11, 2006 with a work load assessment.
- (h) Review of Significant Public Records Act Requests - There were none.
- (i) Review of Council Policy Updates per Sunshine Reforms - There were none.
- (j) Open Forum - None were presented.
- (k) Adjournment - The meeting was adjourned at 2:50 p.m.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Campos and carried unanimously, the Rules Committee Reports and the actions of September 20, 2006 and September 27, 2006, were approved, with the exception of Item 3.2(c)(1)(a) of the September 27, 2006 Report, which was deferred to the October 10, 2006 Special Evening Council Session. Staff was directed to redistribute the summary of the Statewide ballot propositions. (11-0.)

3.3 Report of the Making Government Work Better Committee – September 21, 2006 Council Member Reed, Chair

Documents Filed: The Making Government Work Better Committee Report dated September 21, 2006.

- (a) An Audit of the Procurement Card (P-Card). Attachment: Report of an Audit of the City of San José's Procurement Card Program.

The Committee accepted the Staff Report.

3.3 Report of the Making Government Work Better Committee – September 21, 2006 Council Member Reed, Chair (Cont'd.)

- (b) Discussion on Major Information Technology Projects. Attachment: Memorandum from Interim Chief Information Officer Randall Murphy, dated September 7, 2006, recommending acceptance of the report.

The Committee accepted the Staff Report.

- (c) One Year Status Report on the New City Hall/Development Center. Attachment: Memorandum from Director of General Services Peter Jensen, dated September 8, 2006, recommending acceptance of the report.

The Committee accepted the Staff Report.

- (d) Environmentally Preferable Purchasing Policy Revision. Attachment: Memorandum from Director of Finance Scott Johnson and Director of Environmental Services John Stufflebean, dated September 8, 2006, recommending approval of the report.

The Committee accepted the Staff Report.

- (e) FY 2005-2006 4th Quarter Investment Report. Attachment: Memorandum from Director of Finance Scott Johnson, dated September 11, 2006, recommending acceptance of the report.

The Committee accepted the Staff Report.

- (f) FY 2005-2006 4th Quarter Debt Report. Attachment: Memorandum from Director of Finance Scott Johnson, dated September 11, 2006, recommending acceptance of the report.

The Committee accepted the Staff Report.

- (g) Oral Petitions - None were presented.

- (h) Adjournment - The meeting was adjourned at 2:30 p.m.

Action: Upon motion by Council Member Reed, seconded by Council Member Yeager and carried unanimously, the Making Government Work Better Committee Report and the actions of September 21, 2006, were accepted. (11-0.)

3.4 Adoption of a resolution to change the title and update the specifications of the following classifications:

- (a) Public Safety Dispatcher I (FT) (8515) to Public Safety Communications Specialist (FT) (8515)**
- (b) Public Safety Dispatcher I (PT) (8535) to Public Safety Communications Specialist (PT) (8535)**
- (c) Public Safety Dispatcher II (FT) (8514) to Public Safety Radio Dispatcher (FT) (8514)**
- (d) Public Safety Dispatcher II (FT) (8534) to Public Safety Radio Dispatcher (PT) (8534)**

CEQA: Not a Project. (Human Resources)

Documents Filed: Memorandum from Director Human Resources Mark Danaj, dated September 13, 2006, recommending adoption of a resolution.

Action: Upon motion by Council Member Williams, seconded by Council Member Yeager and carried unanimously, [Resolution No. 73433](#), entitled: “A Resolution of the Council of the City of San José Amending the City of San José Pay Plan to Change the Title and Update the Specifications of Classifications”, was adopted. (11-0.)

3.5 Authorize the Mayor’s Office to make internal promotions from its current staff in order to fill vacancies that may occur from July 1, 2006, to the end of this year, subject to the following conditions:

- (a) Use funds already appropriated for vacated positions to provide fair compensation in recognition of greater workloads and responsibilities of promoted individuals who are performing additional duties.**
- (b) The difference between a promotional salary increase for a current employee and the appropriated salary from a vacated position will not be spent.**
- (c) The Mayor’s Office will not exceed its new appropriation limits and no new staff members will be hired in accordance with the hiring freeze and budget restrictions set by the City Council on August 8.**
- (d) This authorization will apply only to vacancies occurring since July 1, 2006. There is one current vacancy in the Mayor’s Office meeting this definition.**

(Mayor)

(Rules Committee referral 9/20/06)

Documents Filed: Memorandum from Mayor Gonzales, dated September 27, 2006, recommending as stated above.

Action: Upon motion by Council Member Campos, seconded by Council Member Williams and carried, the internal promotions to fill vacancies in the Mayor’s Office were approved. (10-1. Noes: LeZotte)

- 3.6 Approval of a five-year lease agreement with Wen Y. Huang for 12,600 square feet of office space on the ground floor of a building located at 1671 The Alameda at a rental rate of \$19,530 per month for the first year of the lease with annual increases to \$22,680 per month for the final year for a total rent of \$1,239,840 over the five year term of the lease. CEQA: Not a Project. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated September 13, 2006, recommending approval of the lease.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Yeager and carried unanimously, the lease agreement with Wen Y. Huang was approved, with Staff directed to provide more information to Council about the 6% increase negotiated in the lease and further, to explain if it is indexed to any market indicators. (11-0.)

- 3.7 Adoption of an ordinance ratifying final expenditures in various appropriations for FY 2005-2006. (City Manager's Office)
(Deferred from 9/26/06 – Item 3.4)**

Documents Filed: Memorandum from Budget Director Larry Lisenbee, dated September 18, 2006, recommending adoption of an ordinance.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Williams and carried unanimously, [Ordinance No. 27878](#) was adopted. (11-0.)

- 3.8 Consideration of various actions related to independent committees including recommendations related to proposed amendments to Chapter 12.06 of the San José Municipal Code and referrals to the Elections Committee to review various provisions of Chapter 12.06 relating to the Municipal Campaign Contributions. (Reed)
(Rules Committee referral 9/27/06)**

Lengthy discussion ensued regarding independent expenditures and political action committee contributions/fundraising.

Action: Deferred to October 10, 2006 Special Evening Council Session.

- 3.9 Adoption of an urgency ordinance and approval of a regular ordinance amending Section Chapter 12.06 of Title 12 of the San José Municipal Code to add Sections 12.06.090 and 12.06.340 to reinstate limits on campaign contributions to independent committees and suspending enforcement of Section 12.06.310. CEQA: Not a Project. (City Attorney's Office)
(Rules Committee referral 9/27/06)**

Action: Deferred to October 10, 2006 Special Evening Council Session.

**3.10 Discussion regarding the policies and guidelines on petty cash, reimbursement procedures for expenditures made with personal funds and City issued credit cards as applied to Members of City Council and the law implicated by certain uses of public funds and to consider direction to Staff, as appropriate. (City Attorney's Office/City Clerk)
(Rules Committee referral 9/27/06)**

City Attorney Richard Doyle summarized various City rules, guidelines and policies on petty cash, reimbursement procedures for expenditures made with personal funds and City issued credit cards which apply to members of the City Council. He recommended that the City Council clarify existing policies and consolidate them into a single reimbursement policy for the Mayor and City Council. In addition, he proposed that the City Council consider amending the Municipal Code to increase officeholder account limits as an alternative to using office budgets for certain expenses related to constituent services.

Council Member Reed issued a public apology for making certain expenditures paid for with district office funds and for not holding himself to a higher standard. He stated that he concurred with the City Attorney's recommendation to develop a comprehensive Council Expenditure Policy and offered a number of suggestions for a draft policy. He argued against any proposal to increase the officeholder account limits and asserted that the officeholder accounts should be abolished.

Lengthy Council questions and discussion followed.

Public Comment: Ross Signorino, Claudia Shope and Walter Wilson criticized Council Member Reed and urged Council to adopt a policy to prevent Council Members from spending public funds to promote themselves politically.

Action: This item was referred to the Rules Committee for further discussion.

COMMUNITY & ECONOMIC DEVELOPMENT

**4.1 Report of the Building Strong Neighborhoods Committee – September 18, 2006
Council Member Chirco, Chair**

Documents Filed: The Building Strong Neighborhoods Committee Report dated September 18, 2006.

- (a) Building Strong Neighborhoods Update/Status Report. Attachment: Memorandum from Deputy City Manager Mark Linder, dated September 18, 2006, recommending acceptance of the report.

The Committee accepted the Staff Report, with Staff directed to look into a possible partnership with One Economy and report back to the Committee in December 2006.

**4.1 Report of the Building Strong Neighborhoods Committee – September 18, 2006
Council Member Chirco, Chair (Cont'd.)**

- (b) Parkland Dedication Ordinance and Park Impact Ordinance Follow-up Discussion. Attachment: Memorandum from Acting Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated September 5, 2006, recommending acceptance of the report.

The Committee accepted the Staff Report.

- (c) Anti Graffiti/Anti Litter Update Report. Attachment: Memorandum from Acting Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated September 18, 2006, recommending acceptance of the report.

The Committee accepted the Staff Report.

- (d) Discussion of City Outreach for Capital Projects - Deferred to October 2006.
- (e) Oral Petitions - None were presented.
- (f) Adjournment - The meeting was adjourned at 2:55 p.m.

Action: Upon motion by Council Member Chirco, seconded by Council Member Campos and carried unanimously, the Building Strong Neighborhoods Committee Report and the actions of September 18, 2006, were accepted. (11-0.)

4.12 Public hearing and consideration of approval of a Historical Property Contract (California Mills Act) between the City of San José and property owners of the Curtis House, City Landmark No. HL05-152, on a 0.20 gross acre site, in the R-1-8 Single-Family Residence Zoning District, located on the southeast corner of East San Antonio Street and South Seventeenth Street (254 South 17th Street) (Gloria M Scaria). Director of Planning, Building and Code Enforcement and Historic Landmarks Commission recommends approval (4-0-0). CEQA: Exempt. SNI: University.

MA06-002 - District 3

Renumbered from 11.1(a).

Action: Continued to 10/17/06.

**4.13 Staff presentation on the main topical areas from the Economic and Cultural Development Mission to Cambridge/East of England, Dublin, Ireland and Amsterdam, Netherlands. (Williams/Office of Economic Development)
(Rules Committee referral 9/27/06)**

Documents Filed: Memorandum from Director of Economic Development Paul Krutko, dated September 26, 2006, recommending acceptance of the report.

4.13 (Cont'd.)

Director of Economic Development Paul Krutko presented an overview of the European Economic and Cultural Development Mission to Cambridge/East of England, Dublin, Ireland and Amsterdam, Netherlands.

Council Members Williams and Pyle commented on the trip.

Action: Staff presentation only. No Council Action.

NEIGHBORHOOD SERVICES

5.2 (a) Adoption of a resolution authorizing the following:

- (1) Approving the Purchase and Sale Agreement in an amount not to exceed \$1,000,000 with the Boys and Girls Club of Silicon Valley (BGC) for the purchase of a sports field and easements appurtenant to the Smythe Clubhouse located at 2195 and 2293 Cunningham Avenue, San José, California (APN No. 491-35-017);**
- (2) Authorizing the Director of Public Works to expend up to \$50,000 for closing costs and to execute all other documents necessary to complete the transaction; and**
- (3) Accepting an easement for ingress and egress over the adjacent property of the Boys and Girls Club.**

(b) Adoption of the following Appropriation Ordinance Amendments in the Park Trust Fund:

- (1) Establish a Boys and Girls Club Sports Field Acquisition appropriation to the Department of Parks, Recreation and Neighborhood Services in the amount of \$482,000.**
- (2) Decrease the Reserve: Evergreen Valley Sports Fields appropriation by \$251,000.**
- (3) Decrease the Reserve: Joseph George Park Land Acquisition appropriation by \$231,000.**

(c) Adoption of the following Appropriation Ordinance Amendments in the Council District 5 Construction and Conveyance Tax Fund:

- (1) Establish a Boys and Girls Club Sports Field Acquisition appropriation to the Department of Parks, Recreation and Neighborhood Services in the amount of \$284,000.**
- (2) Decrease the Ending Fund Balance by \$284,000.**

(d) Adoption of the following Appropriation Ordinance Amendments in the Council District 8 Construction and Conveyance Tax Fund:

- (1) Establish a Boys and Girls Club Sports Field Acquisition appropriation to the Department of Parks, Recreation and Neighborhood Services in the amount of \$284,000.**
- (2) Decrease the Ending Fund Balance by \$284,000.**

CEQA: Exempt, File No. PP06-071. Council District 8. (Public Works/Parks, Recreation and Neighborhood Services/City Manager's Office)

5.2 (Cont'd.)

Documents Filed: (1) Memorandum from Council Member Cortese and Council Member Campos, dated October 3, 2006, recommending approval of staff's recommendation and direction. (2) Memorandum from Director of Public Works Katy Allen, Acting Director of Parks, Recreation and Neighborhood Services Albert Balagso and Budget Director Larry Lisenbee, dated September 20, 2006, providing additional clarification on the work plan review and the next steps, and recommending adoption of a resolution and appropriation ordinance amendments.

Action: Upon motion by Council Member Campos, seconded by Council Member Cortese and carried unanimously, [Resolution No. 73434](#), entitled: "A Resolution of the Council of the City of San José Approving the Purchase and Sale Agreement to Acquire Property from Boys and Girls Club; Authorizing the Director of Public Works to Expend Up To \$50,000.00 for Closing Costs to Acquire the Property; and Accepting an Easement for Ingress and Egress over Adjacent Property of the Boys and Girls Club"; [Ordinance No. 27879](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 27801 to Appropriate Monies in the Subdivision Park Trust Fund for the Boys and Girls Club Sports Field Acquisition Project; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption"; [Ordinance No. 27880](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 27801 to Appropriate Monies in the Construction Tax and Property Conveyance Tax and Property Conveyance Tax Fund: Parks Purposes Council District No. 5 for the Boys and Girls Club Sports Field Acquisition Project; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption" and [Ordinance No. 27881](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 27801 to Appropriate Monies in the Construction Tax and Property Conveyance Tax and Property Conveyance Tax Fund: Parks Purposes Council District No. 8 for the Boys and Girls Club Sports Field Acquisition Project; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption" adopted, with Staff directed to: (1) Work closely with Council Districts 5 and 8 in conducting a public input process regarding expansion of the CDBG service area to allow for increased usage of the field. (2) Work with the Boys and Girls Club (BGC) to bring to Council a joint use agreement before the end of 2006 that strives to meet the BGC's goal of retaining their frequent utilization of the field in the afternoon hours for their programming needs. (10-0-1. Absent: Reed)

PUBLIC SAFETY SERVICES

- 8.1 (a) Report on bids and award of purchase of pandemic flu supplies from Edwards Medical (South Gate, CA), the low bidder for line items 1, 2, 4 and 5, and to Bound Tree Medical (Greenbrae, CA) for line item 3, for a total amount not to exceed \$641,510.30, including tax using Urban Areas Strategic Initiative (UASI) grants.**
- (b) Authorizing the Director of Finance to:**
- (1) Purchase pandemic flu supplies from other qualified bidders, if the low bidder is not able to provide proof of order from applicable manufacturers by October 5 with a delivery date of October 27;**
 - (2) Execute purchase orders with qualified bidders subject to availability of supplies by the required due dates;**
 - (3) Amend purchase orders with qualified bidders to allow the purchase of additional quantities of pandemic flu supplies for the next twelve months subject to availability of UASI grant funding.**

CEQA: Not a Project. (Finance)

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated September 29, 2006, recommending award of the purchase and authorization to the Director of Finance.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Williams and carried unanimously, award of the purchase from Edwards Medical, the low bidder, and authorization to the Director of Finance to proceed with the actions, were approved. (11-0.)

- 8.2 (a) Report on bids and award of purchase of two trailer mounted pumps from Godwin Pumps of America, Inc. (Bridgeport, NJ), the only bidder, for a total amount not to exceed \$164,944 including tax using Urban Areas Strategic Initiative (UASI) grants.**
- (b) Authorize the Director of Finance to:**
- (1) Execute the purchase order;**
 - (2) Amend the purchase order to allow the purchase additional quantities of Trailer Mounted Pumps for the next twelve months subject to availability of UASI grant funding.**

CEQA: Not a Project. (Finance)

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated September 29, 2006, recommending award of the purchase and authorization to the Director of Finance.

Action: Upon motion by Council Member Williams, seconded by Vice Mayor Chavez and carried unanimously, award of the purchase and authorization to the Director of Finance was approved. (11-0.)

JOINT COUNCIL/REDEVELOPMENT AGENCY

9.1 Discussion and possible action on loan options for the San José Repertory Theatre (REP) in the amount of \$1 million. CEQA: Not a Project. (City Manager's Office) (Deferred from 9/12/06 – Item 9.1 and referred from 9/19/06 – Item 9.3)

Action: Deferred to October 17, 2006.

NOTICE OF CITY ENGINEER'S PENDING DECISION ON FINAL MAPS

In accordance with Sec. 19.16.140d of the San Jose Municipal Code, this is notice of the City Engineer's receipt of the following Final Maps for review:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>
8821	NE corner of Taylor and 7 th Streets	3	ROEM Development Corp.	1 lot/143 units/12,000 SF retail	SFA
9840	SW corner of Capitol Ave. and Mabury Rd.	4	Pinn Bros. Const.	11 lots/99 units	SFA
9855	WS of Curtiss Ave., 350' S of Willow St.	6	Willowshire LLC	5 lots/4 units	SFD

OPEN FORUM

- (1) George Fokus voiced personal views.
- (2) Ross Signorino spoke about a potential soccer field being built at the Santa Clara County Fairgrounds.

ADJOURNMENT

The Council of the City of San José adjourned the afternoon session at 5:19 p.m.

RECESS/RECONVENE

The City Council recessed at 5:19 p.m. from the afternoon Council Session and reconvened at 7:04 p.m. in the Council Chambers, City Hall.

Present: Council Members - Campos, Chavez, Chirco, Cortese, LeZotte, Nguyen, Pyle, Reed, Williams, Yeager; Gonzales.

Absent: Council Members - None.

CEREMONIAL ITEMS

- 1.9 Presentation of a commendation honoring Mr. Cong Thanh Do and his return to the United States. (Chavez/Nguyen/Pyle/Reed)**
(Deferred from 9/26/06 – Item 1.1)

Action: Mayor Gonzales, Vice Mayor Chavez and Council Members Nguyen, Pyle and Reed recognized and honored Mr. Cong Thanh Do on his return to the United States.

COMMUNITY & ECONOMIC DEVELOPMENT

- 4.3 Approval to conduct a public hearing and adoption of a resolution initiating proceedings, and setting November 14, 2006 at 7:00 p.m. for a public hearing on the reorganization of territory designated as Penitencia No. 73 which involves the annexation to the City of San José of an approximately 7-Acre County Pocket containing twenty-eight parcels on the southeast side of Mabury Road, east of King Road, and the detachment of the same from the appropriate special districts including County Lighting County Service, Central Fire Protection and Area No. 01 (Library Services) County Service Districts. CEQA: Resolution No. 65459. Council District 3. (Planning, Building and Code Enforcement)**
(Continued from 8/29/06 – Item 4.4)

Documents Filed: Memorandum from Acting Director of Planning, Building and Code Enforcement Joe Horwedel, dated August 16, 2006, recommending adoption of a resolution.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Pyle and carried unanimously, [Resolution No. 73435](#) was adopted. (11-0.)

- 4.4 Approval to conduct a public hearing and adoption of a resolution initiating proceedings, and setting November 14, 2006 at 7:00 p.m. for a public hearing on the reorganization of territory designated as Piedmont No. 51 which involves the annexation to the City of San José of an approximately 2.3-Acre County Pocket two parcels on the southwesterly side of Stone Creek Drive, approximately 120 feet southerly of Isadora Drive, and the detachment of the same from the appropriate special districts including Central Fire Protection and Area No. 01 (Library Services) County Service Districts. CEQA: Resolution No. 65459. Council District 4. (Planning, Building and Code Enforcement)
(Continued from 8/29/06 – Item 4.5)**

Documents Filed: (1) Memorandum from Acting Director of Planning, Building and Code Enforcement Joe Horwedel, dated August 16, 2006, recommending adoption of a resolution. (2) Proof of Publication of Notice of Public Hearing, executed on August 4, 2006, submitted by the City Clerk.

Action: Upon motion by Council Member Reed, seconded by Council Member Cortese and carried unanimously, [Resolution No. 73436](#) was adopted. (11-0.)

- 4.5 Approval to conduct a public hearing and adoption of a resolution initiating proceedings, and setting November 14, 2006 at 7:00 p.m. for a public hearing on the reorganization of territory designated as Cypress No.30 which involves the annexation to the City of San José of an approximately 3.2-Acre County Pocket containing fifteen parcels on both sides of Maria Way and Antonio Lane and the west side of Essex Way, extending approximately 180 Feet north of Valley Forge Way, and the detachment of the same from the appropriate special districts including West Valley Sanitation, Central Fire Protection and Area No. 01 (Library Services) County Service Districts and County Lighting County Service Districts. CEQA: Resolution No. 65459. Council District 1. (Planning, Building and Code Enforcement)
(Continued from 8/29/06 – Item 4.6)**

Documents Filed: (1) Memorandum from Acting Director of Planning, Building and Code Enforcement Joe Horwedel, dated August 16, 2006, recommending adoption of a resolution. (2) Proof of Publication of Notice of Public Hearing, executed on August 4, 2006, submitted by the City Clerk. (3) Two letters of protest from the public, dated August 17, 2006 and September 26, 2006.

Public Comment: Speaking in opposition to initiating the annexation were Dan McGill, Virginia Petrey, Satoshi Koyano and Mara Williams.

Action: Upon motion by Council Member LeZotte, seconded by Vice Mayor Chavez and carried unanimously, [Resolution No. 73437](#) was adopted, with Staff directed to calculate the average increase to residents resulting from the 5% tax on utilities following City annexation, and incorporate the information for public outreach. (11-0.)

- 4.6 Approval to conduct a public hearing and adoption of a resolution initiating proceedings, and setting October 24, 2006 at 7:00 p.m. (which hearing date is being recommended for continuance to November 14, 2006 at 7:00 p.m.) for a public hearing on the reorganization of territory designated as Story No. 59 which involves the annexation the City of San José of approximately 3.7-Acre County Pocket containing four (4) parcels on the Southeasterly corner of Story Road and Machado Lane and the implementation of the annexation would result in the detachment of properties within the annexation area from Central Fire Protection, and Area No. 01 (Library Services) County Service (Numerous Owners). CEQA: Resolution No. 65459. Council District 5. (Planning, Building and Code Enforcement) (Continued from 9/19/06 – Item 4.8)**

Documents Filed: (1) Memorandum from Acting Director of Planning, Building and Code Enforcement Joe Horwedel, dated September 13, 2006, recommending adoption of a resolution. (2) Proof of Publication of Notice of Public Hearing, executed on August 18, 2006, submitted by the City Clerk.

Action: Upon motion by Council Member Campos, seconded by Council Member Williams and carried unanimously, [Resolution No. 73438](#) was adopted. (11-0.)

- 4.7 Approval to conduct a public hearing and adoption of a resolution initiating proceedings, and setting October 24, 2006 at 7:00 p.m. (which hearing date is being recommended for continuance to November 14, 2006 at 7:00 p.m.) for a public hearing on the reorganization of territory designated as Sunol No. 74 which involves the annexation the City of San José of approximately 1.7-Acre County Pocket consisting of 11 parcels on the south side of Paula Street, west of Race Street. Implementation of the annexation would result in the detachment of properties within the annexation area from Sunol Sanitary, County Lighting County Service, Central Fire Protection, and Area No. 01 (Library Services) County Service. CEQA: Resolution No. 65459. Council District 6. (Planning, Building and Code Enforcement) (Continued from 9/19/06 – Item 4.9)**

Documents Filed: (1) Memorandum from Acting Director of Planning, Building and Code Enforcement Joe Horwedel, dated September 13, 2006, recommending adoption of a resolution. (2) Proof of Publication of Notice of Public Hearing, executed on August 18, 2006, submitted by the City Clerk.

Public Comment: Steven Dibble asked if Council would consider deferring this item in order to perform more outreach.

Action: Upon motion by Council Member Yeager, seconded by Vice Mayor Chavez and carried unanimously, [Resolution No. 73439](#) was adopted. (11-0.)

- 4.8 Approval to conduct a public hearing and adoption of a resolution initiating proceedings, and setting October 24, 2006 at 7:00 p.m. (which hearing date is being recommended for continuance to November 14, 2006 at 7:00 p.m.) for a public hearing on the reorganization of territory designated as Sunol No. 75 which involves the annexation the City of San José of approximately 3.6-Acre County Pocket consisting of 13 parcels on the north side of Paula Street, east of Northrup Street, and the west side of Lincoln Avenue south of Interstate 280 and north of Paula Street. Implementation of the annexation would result in the detachment of properties within the annexation area from Sunol Sanitary, County Lighting County Service, Central Fire Protection, and Area No. 01 (Library Services) County Service. CEQA: Resolution No. 65459. Council District 6. (Planning, Building and Code Enforcement)
(Continued from 9/19/06 – Item 4.10)**

Documents Filed: (1) Memorandum from Acting Director of Planning, Building and Code Enforcement Joe Horwedel, dated September 13, 2006, recommending adoption of a resolution. (2) Proof of Publication of Notice of Public Hearing, executed on August 18, 2006, submitted by the City Clerk.

Action: Upon motion by Council Member Yeager, seconded by Vice Mayor Chavez and carried unanimously, [Resolution No. 73440](#) was adopted. (11-0.)

- 4.9 Approval to conduct a public hearing and adoption of a resolution initiating proceedings, and setting October 24, 2006 at 7:00 p.m. (which hearing date is being recommended for continuance to November 14, 2006 at 7:00 p.m.) for a public hearing on the reorganization of territory designated as Sunol No. 76 which involves the annexation the City of San José of approximately 1.8-Acre County Pocket consisting of 13 parcels on the north side of Paula Street, west of Northrup Street. Implementation of the annexation would result in the detachment of properties within the annexation area from Sunol Sanitary, County Lighting County Service, Central Fire Protection, and Area No. 01 (Library Services) County Service. CEQA: Resolution No. 65459. Council District 6. (Planning, Building and Code Enforcement)
(Continued from 9/19/06 – Item 4.11)**

Documents Filed: (1) Memorandum from Acting Director of Planning, Building and Code Enforcement Joe Horwedel, dated September 13, 2006, recommending adoption of a resolution. (2) Proof of Publication of Notice of Public Hearing, executed on August 18, 2006, submitted by the City Clerk.

Action: Upon motion by Council Member Yeager, seconded by Vice Mayor Chavez and carried unanimously, [Resolution No. 73441](#) was adopted. (11-0.)

- 4.10 Approval to conduct a public hearing and adoption of a resolution initiating proceedings, and setting October 24, 2006 at 7:00 p.m. (which hearing date is being recommended for continuance to November 14, 2006 at 7:00 p.m.) for a public hearing on the reorganization of territory designated as Cambrian No. 35 which involves the annexation the City of San José of approximately 2.55-Acre County Pocket consisting of 9 parcels on the southwesterly corner of Bascom Avenue and Curtner Avenue. Implementation of the annexation would result in the detachment of properties within the annexation area from West valley Sanitation, County Lighting County Service, Central Fire Protection, and Area No. 01 (Library Services) County Service. CEQA: Resolution No. 65459. Council District 9. (Planning, Building and Code Enforcement)
(Continued from 9/19/06 – Item 4.13)**

Documents Filed: (1) Memorandum from Acting Director of Planning, Building and Code Enforcement Joe Horwedel, dated September 13, 2006, recommending adoption of a resolution. (2) Proof of Publication of Notice of Public Hearing, executed on August 18, 2006, submitted by the City Clerk.

Action: Upon motion by Council Member Chirco, seconded by Council Member Williams and carried unanimously, [Resolution No. 73442](#) was adopted. (11-0.)

- 4.11 Adoption of a resolution initiating proceedings, and setting October 24, 2006 at 7:00 p.m. for a public hearing on the reorganization of territory designated as Sunol No. 72 which involves the annexation to the City of San José of an approximately 0.88 gross acres of land located at the south side of Paula Street, approximately 160 feet easterly of Meridian Way, and the detachment of the same from the appropriate special districts including Sunol Sanitary, County Lighting County Service, Central Fire Protection and Area No. 01 (Library Services) County Service. CEQA: Mitigated Negative Declaration. Council District 6. (Planning, Building and Code Enforcement)**

Documents Filed: (1) Memorandum from Acting Director of Planning, Building and Code Enforcement Joe Horwedel, dated September 13, 2006, recommending adoption of a resolution. (2) Proofs of Publications of Notices of Public Hearings, executed on September 13, 2006 and September 22, 2006, submitted by the City Clerk.

Action: Upon motion by Council Member Yeager, seconded by Vice Mayor Chavez and carried unanimously, [Resolution No. 73443](#), entitled: “A Resolution of the Council of the City of San José Initiating Reorganization Proceedings for the Annexation and Detachment of Certain Uninhabited Territory Designated as Sunol No. 72 and Described Herein and Giving Notice of Hearing on the Proposed Reorganization and Written Protests, If Any”, was adopted, with Staff directed to ensure the County Board of Supervisors is kept up to date with the progress of all of the City annexations. (11-0.)

PUBLIC HEARINGS ON CONSENT CALENDAR

City Clerk Lee Price read the requests for continuance of the applications. Upon motion by Vice Mayor Chavez, seconded by Council Member Williams, and carried unanimously, the below noted continuances and actions were taken as indicated. (11-0.)

- 11.1 (a) Consideration of approval of a Historical Property Contract (California Mills Act) between the City of San José and property owners of the Curtis House, City Landmark No. HL05-152, on a 0.20 gross acre site, in the R-1-8 Single-Family Residence Zoning District, located on the southeast corner of East San Antonio Street and South Seventeenth Street (254 South 17th Street) (Gloria M Scaria). Director of Planning, Building and Code Enforcement and Historic Landmarks Commission recommends approval (4-0-0). SNI: University. CEQA: Exempt. MA06-002 - District 3**

Action: Renumbered to 4.12. Continued to October 17, 2006.

- (b) Consideration of an ordinance rezoning the real property located at the southwest corner of Delia Street and McKee Road from Unincorporated County to R-1-8 Single-Family Residence District to allow 2 residential uses on a 0.23 gross acre site (293 Delia Street) (Navarro and Maria Transito, et al., Owner). Director of Planning, Building and Code Enforcement and Planning Commission recommended approval (6-0-1). CEQA: Resolution No. 65459. C06-073 - District 5**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C06-073, dated September 6, 2006, recommending denial on the subject property. (2) Memorandum from Planning Commission Secretary Joe Horwedel, dated September 14, 2006, transmitting the Planning Commission recommendation of the subject property. (3) Proofs of Publications of Notices of Public Hearings, executed on September 1, 2006, and September 10, 2006, submitted by the City Clerk.

Public Comment: Mayor Gonzales opened the public hearing. There was no testimony from the floor. Mayor Gonzales closed the public hearing.

Action: The recommendation of the Planning Commission and the Planning Director was approved, and [Ordinance No. 27882](#), entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated on the Southwest Corner of McKee Road and Delia Street (293 Delia Street) to R-1-8 Single Family Residence", was passed for publication. (10-0-1. Disqualified: Cortese.)

- 11.1 (c) **Consideration of an ordinance rezoning the real property located on the east side of North 2nd Street, approximately 140 feet northerly of St. James Street from CG Commercial General Zoning District to DC Downtown Commercial Zoning District to allow commercial uses within a designated City Landmark building on a 0.43 gross acre site (240 N. 2nd St.) (Bel Aire Inv. Inc., Owner). Director of Planning, Building and Code Enforcement and Planning Commission recommended approval (6-0-1). CEQA: Resolution No. 65459.**
C06-031 - District 3

Documents Filed: Memorandum from Planning Commission Secretary Joe Horwedel, dated September 14, 2006, transmitting the Planning Commission recommendation of the subject property.

Action: Continued to October 24, 2006.

- (d) **Consideration of an ordinance rezoning the real property located on the west side of Settle Avenue, approximately 500 feet northwest of Minnesota Avenue from R-1-8 Residential Zoning District to A(PD) Planned Development Residential Zoning District to allow the construction of two single family detached residences arranged in a flag lot configuration for the subject property (1305 Settle Avenue) (3564 Highland LLC, Owner). Director of Planning, Building and Code Enforcement recommended denial. Planning Commission has no recommendation (5-0-2). CEQA: Exempt.**
PDC06-065 - District 6

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC06-065, dated September 19, 2006, recommending approval on the subject property. (2) Memorandum from Planning Commission Secretary Joe Horwedel, dated September 28, 2006, transmitting the Planning Commission recommendation of the subject property. (3) Proofs of Publications of Notices of Public Hearings, executed on September 1, 2006, and September 10, 2006, submitted by the City Clerk.

Acting Director of Planning, Building and Code Enforcement Joe Horwedel pulled this item off the Consent Calendar and recommended it be heard as a separate public hearing.

Public Comment: Mayor Gonzales opened the public hearing. Joe Greco spoke in opposition. Stan Nielsen, Architect, spoke in favor of the project. Mayor Gonzales closed the public hearing.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Yeager and carried unanimously, the application was denied. (11-0.)

- 11.1 (e) **Consideration of an ordinance rezoning the real property located on the north side of Capitol Expressway, approximately 200 feet west of Snell Avenue from CO(PD) and A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District and subsequent permits to (1) demolish 3.5 existing mini storage buildings totally 27,769 square feet and (2) construct 2 new mini storage buildings and 2 additions to existing buildings totaling 83,180 square feet for a total increase of 55,411 square feet on a 5.69 gross acre site (231 W. Capitol Expressway/3911 Snell Ave.) (Public Storage Properties, Inc., Owner). Director of Planning, Building and Code Enforcement and Planning Commission recommended approval (6-0-1). CEQA: Mitigated Negative Declaration.**

PDC06-019 - District 10

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC06-019, dated September 5, 2006, recommending denial on the subject property. (2) Memorandum from Planning Commission Secretary Joe Horwedel, dated September 14, 2006, transmitting the Planning Commission recommendation of the subject property. (3) Proofs of Publications of Notices of Public Hearings, executed on September 1, 2006, and September 10, 2006, submitted by the City Clerk.

Public Comment: Mayor Gonzales opened the public hearing. There was no testimony from the floor. Mayor Gonzales closed the public hearing.

Action: The recommendation of the Planning Commission and the Planning Director was approved, and [Ordinance No. 27883](#), entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated on the North Side of Capitol Expressway Approximately 200 Feet West of Snell Avenue to A(PD) Planned Development Zoning District", was passed for publication. (11-0.)

- (f) **Consideration of an ordinance rezoning the real property located at the southeast corner of Almaden Expressway and Almaden Road from A Agriculture Zoning District to A(PD) Planned Development Zoning District to allow up to 13 single family detached residences on a 1.24 gross acre site (18950 Almaden Road) (John D. and Jennifer R. Carson, Owner). CEQA: Mitigated Negative Declaration.**

PDC05-109 - District 10

Action: Continued to October 24, 2006.

END OF PUBLIC HEARINGS CONSENT CALENDAR

PUBLIC HEARINGS

- 11.2 Consideration of an ordinance rezoning the real property located at the southwest corner of Monterey Road and Goble Lane rezoning from A(PD) Planned Development Zoning District which allows up to 969 single family and multi family residential units and approximately 18,000 square feet of commercial space site to A(PD) Planned Development Zoning District to modify the previously approved General Development Standards to allow (1) a reduction in setbacks along Monterey Road; (2) to allow detached units; (3) to clarify the park dedication requirement (2745 Monterey Road) (ROEM Development Corporation, Owner/Developer). Director of Planning, Building and Code Enforcement and Planning Commission recommended approval (4-0-3). CEQA: Resolution No. 72877, File No. PDC02-066.**

PDC06-034 - District 7

[Continued from 8/15/06 – Item 11.6 and 9/19/06 – Item 11.2]

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC06-034, dated September 19, 2006, recommending approval on the subject property. (2) Memorandum from Planning Commission Secretary Joe Horwedel, dated September 28 2006, transmitting the Planning Commission recommendation of the subject property. (3) Proofs of Publications of Notices of Public Hearings, executed on July 28, 2006, August 4, 2006, and August 7, 2006, submitted by the City Clerk.

Public Comment: Mayor Gonzales opened the public hearing. Jonathan Eman spoke in support of the staff recommendation. Mayor Gonzales closed the public hearing.

Action: Upon motion by Council Member Nguyen, seconded by Council Member LeZotte and carried unanimously, the recommendation of the Planning Commission and the Planning Director was approved, and [Ordinance No. 27884](#), entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated on the Southwest Corner of Monterey Road and Goble Lane to A(PD) Planned Development Zoning District”, was passed for publication. (11-0.)

- 11.3 Consideration of an ordinance of the City of San José amending Chapter 21.04 of Title 21 of the San José Municipal Code to add a new section and amending Section 21.06.030 of Chapter 21.06 of Title 21, all related to providing for an additional appeal to the City Council of certain environmental clearance determinations. CEQA: Not a Project. (Planning, Building and Code Enforcement)**
[Continued from 8/29/06 – Item 11.1(k)]

Action: Continued to October 24, 2006.

- 11.4 Consideration of an ordinance rezoning the real property located on the southwesterly corner of Eberly Drive and Neilson Court from R-1-5 Residence Zoning District to A(PD) Planned Development Zoning District to allow one existing and five new single-family detached residences and subsequent subdivision on a 1.7 gross acre site (376 Neilson Court) (Giani Smith, Owner). Director of Planning, Building and Code Enforcement recommended a maximum of 3 units and Planning Commission recommended approval (4-1-2) with a maximum of 4 units. CEQA: Mitigated Negative Declaration.
PDC04-091 - District 2**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC04-091, dated September 5, 2006, recommending approval on the subject property with conditions. (2) Memorandum from Planning Commission Secretary Joe Horwedel, dated September 14 2006, transmitting the Planning Commission recommendation of the subject property. (3) Proofs of Publications of Notices of Public Hearings, executed on September 1, 2006, and September 10, 2006, submitted by the City Clerk. (4) Letter from Hopkins & Carley, dated September 27, 2006, referencing the subject property.

Public Comment: Mayor Gonzales opened the public hearing. Speaking in support were Richard Hartman, Owner, and Giani Smith. Speaking in opposition were Steve Pierce and Diane Thorne. Mayor Gonzales closed the public hearing.

Action: Upon motion by Council Member Williams, seconded by Council Member Pyle and carried, the recommendation of the Planning Commission was approved with a maximum of 4 units, and [Ordinance No. 27885](#), entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated on the Southeasterly Corner of Eberly Drive and Neilson Court to A(PD) Planned Development Zoning District", was passed for publication. (10-1. Noes: Reed.)

- 11.5 Consideration of an ordinance rezoning the real property located on the southwest corner of Capitol Expressway and Tully Road from A Agriculture Zoning District to CG Commercial General Zoning District to allow commercial uses on a 2.07 gross acre site (General Growth Properties Inc., Owner; Rayjer Properties LLC/Beshoff Motors, Developer). Director of Planning, Building and Code Enforcement recommended approval. No Planning Commission action required. CEQA: Resolution No. 65459.
C05-125 - District 8**

Documents Filed: (1) Memorandum from Council Member Cortese, dated October 3, 2006, recommending approval of the staff recommendation. (2) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C05-125, dated September 11, 2006, recommending approval on the subject property. (3) Memorandum from Planning Commission Secretary Joe Horwedel, dated September 29 2006, transmitting additional information on the subject property. (4) Proofs of Publications of Notices of Public Hearings, executed on September 22, 2006, and September 24, 2006, submitted by the City Clerk.

11.5 (Cont'd.)

Public Comment: Mayor Gonzales opened the public hearing. Frank Sweeney mentioned he and other pilots were initially opposed to this rezoning but no longer had any objections. Mayor Gonzales closed the public hearing.

Action: Upon motion by Council Member Cortese, seconded by Council Member Campos and carried unanimously, the recommendation of the Planning Director was approved, and [Ordinance No. 27886](#), entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated at the Southwest Corner of Tully Road and Capitol Expressway to CG Commercial General Zoning District", was passed for publication. (11-0.)

OPEN FORUM

- (1) Arzhang Kalbali requested assistance with completing a construction project.
- (2) Zoran Trconic, Local OE3, voiced opinions of the City budget.
- (3) Gary Roberts, Local OE3, expressed personal observations.
- (4) Steve Maldonado, Local OE3, articulated public safety observations.
- (5) Lloyd Standridge, Local OE3, spoke of union negotiations.
- (6) Pascal Roubineau, Local OE3, expressed concerns on the union contract status.
- (7) Daniel Finn, Local OE3, expressed views of union negotiations.
- (8) Max Rodriguez, Local OE3, voiced personal observations.
- (9) Martel Villagomez, Local OE3, articulated personal observations.
- (10) Bill Pope, Union Representative OE3, spoke for an agreeable contract, that the union members should be properly taken care of.
- (11) Jon Max Reger, Local OE3, voiced personal observations.
- (12) Michael Johnson, Local OE3, expressed personal views.
- (13) Robert Apgar voiced personal observations.
- (14) Mark Trout expressed personal religious views.

ADJOURNMENT

The Council of the City of San José adjourned at 8:41 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

Lee Price, MMC
City Clerk

smd/10-3-06MIN

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JOINT COUNCIL/REDEVELOPMENT AGENCY

The Joint Redevelopment Agency Board convened at 5:22 p.m. to consider Item 8.1 in a Joint Session.

- 8.1**
- (a) Adoption of a resolution by the City Council accepting the summary of the costs and findings of the Summary 33433 Report and Estimated Reuse Valuation pursuant to the California Health and Safety Code Section 33433 for a lease to Phan Ha, Tran Ha and Vinh Ha (dba Juice Zone) of 1,648 square feet of City owned ground floor retail space at 88 South Fourth Street, Suite 100, that is master leased to the Redevelopment Agency and making certain findings;**
 - (b) Approval for the City Council and Redevelopment Agency Board of a lease with Phan Ha, Tran Ha and Vinh Ha (dba Juice Zone) for the property located at 88 South Fourth Street, Suite 100, for 1,648 square feet of ground floor retail space;**
 - (c) Approval by the City Council of a Certificate of Nondisturbance and Attornment with Juice Zone under the terms of the Master Lease between the City and the Redevelopment Agency.**

Documents Filed: Memorandum from Redevelopment Agency Director Harry S. Mavrogenes and City Manager Les White, dated October 3, 2006, recommending adoption of a City Council resolution and approval of the lease and certificate.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Yeager and carried unanimously, [Resolution No. 73444](#) was adopted, the lease and Certificate of Nondisturbance and Attornment was approved. (11-0.)

The Council of the City of San José, and Redevelopment Agency Board adjourned at 5:23 p.m.